

1 ramp and all of that, but the BLM comes along, closes it up,  
2 puts up a big fee. Now we all have to pay.

3 The man's right, the lady's right. You guys --  
4 every agency just continues to take a little more. We need  
5 another 10,000 acres. We need another 5,000 acres. Is  
6 there no end to your situation? Yours is one of only --  
7 I don't know where the end is coming, but I can see that we  
8 don't have -- the end of our use of land is becoming very,  
9 very, very narrow, and I think that's what you are hearing  
10 from everyone here.

11 And you guys just come along -- I shouldn't say  
12 you guys. You people, whoever. I don't understand how the  
13 Metropolitan Water District has something to do with saving  
14 this poor little bird. I thought Metropolitan Water  
15 District provided water for 300 million people out there is  
16 what I thought.

17 But nevertheless, you are down here. You bought  
18 farm land. I don't understand all the thing. I didn't  
19 graduate from college. I'll never be able the read all that  
20 stuff and understand it. I can read it, but I wouldn't  
21 understand it because I'm not a lawyer.

22 But my main object is that you want only 8,000  
23 acres, and I will guarantee you within 20 years you will  
24 want another 8,000 acres.

25 I don't know whereabouts, but we have refuges.

Blythe-30  
con't

Blythe-31

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1     There's acres and acres in these refuges. We can't go on  
 2     that. We used to go on it. It's like all these backwaters  
 3     this gentleman is talking about that we used to be able to  
 4     go fish, we drive our boat in, drive our car to them and go  
 5     fishing, swimming, whatever you want to do. But they fence  
 6     them off. If you're able to go in, you've got to pay big  
 7     bucks.

8             We have no public access to the river anymore,  
 9     which you also said that has nothing to do with your show  
 10    here tonight, but that is a very true story. We do not have  
 11    public access to the river anywhere.

12            And I'll leave it at that.

13            MR. VANDERHORST: Okay. Thank you.

14            And again, the issue of public access obviously  
 15    was a very important one and we understand that and that  
 16    comment will need to be addressed. Thank you.

17            (One hand raised.)

18            MR. VANDERHORST: Yes, sir.

19            MR. HERNANDEZ: Yes. Sonny Hernandez,  
 20    H-e-r-n-a-n-d-e-z, counsel for the City of Blythe. One of  
 21    my concerns I have always been, you know, they always say  
 22    reasonable access to the river. Is there a definition that  
 23    you have if you close off a -- an area that there's  
 24    reasonable access? And what is your definition of  
 25    reasonable access? It could be five feet, it could be two

Blythe-31

Blythe-32

1 feet.

2 You know, is there something in your documents  
3 that says you're allowed reasonable access to a certain area  
4 of the river instead of just closing off? Because there are  
5 documents right now that protect access to the river for the  
6 public, but it's called reasonable and that doesn't define  
7 anything. It could be five feet to the river, it could be  
8 two feet. It could be, you know, a thousand feet.

9 But is there anything in your document that says  
10 you are going to allow a reasonable access to the river if  
11 you close off portions of it?

12 MR. HARRIS: Yeah, we are not going to close  
13 off the river. I mean, that is not part of this, any  
14 portion of it. That's just not what this is about.

15 MR. HERNANDEZ: To have conservation land,  
16 people -- you are going to have to close it off because  
17 people are going to go in there. I don't see how. One of  
18 the problems I see, you habitat. What do you do? You close  
19 it off because you don't want people to enter that.

20 MR. HARRIS: That's not the river access or  
21 anything like that.

22 MR. HERNANDEZ: It's a natural resource.

23 MR. HARRIS: Any natural resource, but when  
24 you start getting people in there -- You don't need people  
25 in there to start. It's like fire protection along the

Blythe-32  
con't

Blythe-32  
con't

1 river. If the habitat is at a particular stage where you  
 2 may need to close it during the breeding season for the  
 3 willow flycatcher. That's done all ready on the river in  
 4 places where the habitat's suitable and the birds are  
 5 nesting.

6 That's done already, but, you know, that's a very  
 7 small amount of the riparian habitat along the Lower  
 8 Colorado River. You know, other times of year you might be  
 9 able to go in as a bird watcher and look at these birds,  
 10 but...

11 MR. VANDERHORST: As I understand your  
 12 comment, the concern is that the program not interfere with  
 13 reasonable access based on the reasonable use you are making  
 14 of the river now.

15 MR. HERNANDEZ: Right.

16 MR. VANDERHORST: So if you have a point  
 17 where you are putting a boat in your river, we are not going  
 18 to make that point or if you have a point you fish on that  
 19 river, we are not going to keep you out of that place.

20 MR. HERNANDEZ: Right. The other question I  
 21 have, I have seen some of these programs, nature programs of  
 22 balance. We tend to -- we tend to unbalance. We changed  
 23 the food chain.

24 In other words, you get other creatures come in.  
 25 You have a -- If the chain is different than before. What

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1 do you do when you increase this other fish or whatever? I  
 2 don't know. I'm not too familiar with the fish and game.  
 3 But what happens when you -- instead of when you try to get  
 4 this fish so now you increase the food chain to some other  
 5 animal and that increases and how do you control that  
 6 population from increasing because you increase the food  
 7 chain? You know, you change the balance of nature, what  
 8 nature has done.

Blythe-33  
con't

9 MR. VANDERHORST: Okay. So that would be a  
 10 concern about --

11 MR. HERNANDEZ: Well, what I am saying -- I'm  
 12 trying to say -- you are changing the balance. Nature tends  
 13 to balance itself out.

Blythe-33  
con't

14 MR. VANDERHORST: Okay.

15 MR. HERNANDEZ: What you did, you are  
 16 increasing this specific species which somebody's feeding  
 17 off of that species.

Blythe-33  
con't

18 MR. VANDERHORST: Right.

19 MR. HERNANDEZ: So now you tend to increase  
 20 what they are feeding off of; that food they are feeding  
 21 off, that increases the population so you have a bigger food  
 22 chain. You go up the chain of food and so you are  
 23 increasing everything else.

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24 MR. VANDERHORST: There's a section in the  
 25 Environmental Impact Statement document which discusses the

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1 impact of the program on -- by California resources which  
2 includes that concept, and so you may want to take a look at  
3 that --

4 MR. HERNANDEZ: Okay.

5 MR. VANDERHORST: -- and supplement with a  
6 written comment on specific concerns you have.

7 MR. HERNANDEZ: Okay.

8 (One hand raised.)

9 MR. VANDERHORST: Yes.

10 MR. NELSON: Les Nelson. Earlier you said  
11 that this document would be subject to the NECO process. Is  
12 it also subject to CEQA?

Blythe-34

13 MR. VANDERHORST: The process we are going  
14 through is the CEQA as well as a federal NECO process.

15 (One hand raised.)

16 MR. VANDERHORST: Yes, sir.

17 MR. OCHS: My name is Edward Ochs, O-c-h-s.  
18 I'm regurgitating, trying to get an understanding of what  
19 you are doing, Metropolitan Water District.

Blythe-35

20 Basically what you are telling us; they authorized  
21 the water to start pumping out to California aqueducts; that  
22 it is legally required by you guys to do this in order to  
23 maintain fines or whatever you need to meet for your  
24 compliance for changing the environment trying to bring it  
25 back into prospective to save what you have already taken is

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1       what I am getting out of this. To bring you back into  
 2       compliance because pumping for the California aqueduct has  
 3       impacted the environment; therefore, we are going to try to  
 4       recoup and bring it back to what it should be?

Blythe-35  
con't

5                       MR. VANDERHORST: This isn't a -- to  
 6       restore.

7                       MR. OCHS: Not to restore, but the  
 8       environment impact; fish, the wildlife, the other things  
 9       have been affected from pumping water. I hear, rather than  
 10      being fined, you, as Metropolitan -- my dad works for  
 11      METROPOLITAN Water District. I'm not -- but what is  
 12      happening here, we are trying to recoup what's been taken  
 13      out; therefore, you don't get fined, Metropolitan.

Blythe-35  
con't

14                      MS. FITZPATRICK: It's not only Metropolitan.  
 15      It's all --

16                      MR. HARRIS: MTA.

17                      MS. FITZPATRICK: Takes water.

18                      THE COURT REPORTER: I can only take down one  
 19      person speaking at a time.

20                      MR. VANDERHORST: I'm sorry.

21                      MS. FITZPATRICK: This program covers all  
 22      water users in Arizona, Nevada, and California, not just  
 23      Metropolitan.

24                      MR. OCHS: Right. But you are trying to  
 25      recoup what has been lost. This is what they are going

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1 about, and they are not essentially changing. The water is  
 2 depleted anyway. The water has gone down. There is more  
 3 water pulled out to everybody's source. We are losing water  
 4 here on the river. The water level has gone down over years  
 5 and it's -- I've got a dock down there, sits on the ground  
 6 half the year. I expect less and less the longer I'm here.  
 7 Eventually, I figure, I'm going TO have an off-road park in  
 8 my backyard.

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 con't

9 MR. VANDERHORST: You will want to read the  
 10 studies of hydrology. It will discuss how the program  
 11 anticipates changes in the river flows. So you can take a  
 12 look at that.

13 MR. HULL: Charles Hull again. The comments  
 14 about water from the Lower Colorado River to any of the  
 15 three states or any user. It's a gross amount of 1.574  
 16 million acre feet.

Blythe-37

17 MR. HARRIS: This was the first case. We use  
 18 the maximum amount that could conceivably be transferred  
 19 targeting the points of diversion between the three states.

20 MR. HULL: That occurred in the past,  
 21 recently?

22 MR. HARRIS: No. No. This is the wish list,  
 23 if you would.

24 MR. HULL: Right.

25 MR. HARRIS: Transfer and move water around.

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1       What is the maximum amount because we felt we really needed  
2       to look at the impacts at the upper threshold, not in  
3       minimum amount.

4                   MR. HULL: Right. And that's the point I'm  
5       going to is that any diversions that have occurred; i.e.,  
6       the San Diego, MWB, PVID, those are on an existing  
7       threshold.

8                   MR. HARRIS: They are within that package.

9                   MR. HULL: Within that total?

10                  MR. HARRIS: That's right.

11                  MR. HULL: They are within that total.

12                  MR. HARRIS: We start from zero --

13                  MR. VANDERHORST: This is what happens when  
14       you ask detailed questions.

15                  MR. HULL: This is important here locally.  
16       200 -- that two hundred thousand three hundred and  
17       thirty-one thousand that's leaving here or going to leave  
18       here in the very near future.

19                  MR. NELSON: That is a critical question and  
20       to understand it and we need to know. Is the 1.5 worse case  
21       scenario? This puts the planned documents in place. This  
22       allows for the incidental takes. This is in large measure  
23       being done through the Endangered Species Act 1973. This is  
24       30 years later.

25                  So that's part of it really to facilitate

Blythe-38

1 something in the future and what part of what that is in the  
 2 future, our future water diversion, and I would like to know  
 3 if the future water diversion, if it's 1.5, does that  
 4 include the diversions that are already in place or is that  
 5 1.5 a new number on top of the diversion already existing?  
 6 That's an important question.

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 con't

7 MR. HULL: Thank you, Les.

8 MR. VANDERHORST: Let me try to address that  
 9 then.

10 The California agencies already have an incidental  
 11 take permit for four hundred thousand acre feet of water in  
 12 transfers based on the interim surplus criteria. This is a  
 13 problem when you start asking these detailed questions.

14 MR. HULL: Can you refer to us a chapter so  
 15 we can look that up?

16 MR. VANDERHORST: We have a combined federal  
 17 and non-federal process. Federal agencies, they have to be  
 18 in compliance with the Endangered Species Act. Under  
 19 Section 7 of that Act, what that requires is that any agency  
 20 that's going to take an action that has an impact on an  
 21 endangered species has to consult with the Fish and Wildlife  
 22 Service before it does that.

23 The Bureau of Reclamation has already consulted  
 24 with the Fish and Wildlife Service on several actions that  
 25 affect the river including interim surplus water where they

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1 audited through 2016 as well as the transfer of four hundred  
2 thousand acre feet of water in California.

3 MR. NELSON: Colorado River water.

4 MR. VANDERHORST: Yes, Colorado River water.

5 That was to cover California transfers that were part of  
6 quantification settlement agreement. That Endangered  
7 Species Act compliance is in place. What the non-federal  
8 agencies are now doing, all the water agencies, PVID,  
9 Metropolitan Valley, Metropolitan, we are now applying for  
10 our own Endangered Species Act permit under Section 10-A --  
11 different section of the Act that applies to non-federal  
12 agencies because we don't have a permit for that four  
13 hundred thousand acre feet. It was covered under Section  
14 10. We asked to include it in our Section 10 permit, and so  
15 it is covered in the document for the non-federal agencies,  
16 and that's part of the entire 1.574 million acre feet.

17 The -- I forgot what I was going to say. The  
18 federal action that's covered by this program is only 1.17  
19 million acre in transfers.

20 MR. NELSON: The 1-5 is inclusive?

21 MR. VANDERHORST: Inclusive of the four  
22 hundred thousand was approved by the National Fish and  
23 Wildlife.

24 MR. HARRIS: Under Section 10.

25 MR. NELSON: Thank you.

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1 MR. HULL: What chapter would that be, Chris?

2 MR. HARRIS: If you look at Chapter 2 of the  
3 Habitat Conservation Plan.

4 MS. FITZPATRICK: Volume 2.

5 MR. VANDERHORST: Volume 2 of the set that  
6 states all of the actions in each of the states that's  
7 reserving coverage.

8 MS. FITZPATRICK: That chapter is covered  
9 called description of covered activities and it describes  
10 them state by state; California, Arizona -- California and  
11 Nevada and I'm not sure the equivalent chapter in the  
12 federal document. It's also Chapter 2.

13 MR. HULL: Thank you.

14 MS. JACOE: What is the title of the federal  
15 document?

16 MR. VANDERHORST: It would be -- I think it's  
17 called a Biological Assessment, Volume 3 of the 4 volumes.

18 Further comments?

19 (No response.)

20 MR. VANDERHORST: Okay. Thank you very much  
21 for your interest. We really appreciate you coming out  
22 tonight. We appreciate interest in the program; and again,  
23 we encourage future additional written comments be  
24 submitted.

25 Thank you again. Good night.

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1 (The public meeting was adjourned at  
2 7:54 p.m.)  
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## 1 CERTIFICATE OF REPORTER

2 State of Arizona)  
3 )  
4 County of Mohave)

5 I, Juliette L. Vidaurri, CCR, RPR, do hereby  
6 certify that I took down in shorthand (Stenotype) all of the  
7 proceedings had in the above-entitled matter at the time and  
8 place indicated, and that thereafter said shorthand notes  
9 were transcribed into typewriting at and under my direction  
10 and supervision, and the foregoing transcript constitutes a  
11 full, true, and accurate record of the proceedings had.

12 In witness whereof, I have hereunto affixed my  
13 hand the 30th day of August, 2004.

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Juliette L. Vidaurri, CCR, RPR  
AZ CCR #50359/CA CCR #11081/NV CCR #748

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